

The parties shall provide another status update no later than 2/28/22, or sooner if developments warrant.



SO ORDERED.

Cathy Seibel
CATHY SEIBEL, U.S.D.J.

U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

1/18/22

January 15, 2022

BY ECF

The Honorable Cathy Seibel
United States District Judge
Southern District of New York
300 Quarropas Street
White Plains, New York 10601

Re: United States v. Grafton E. Thomas, 20 Cr. 21 (CS)

Dear Judge Seibel:

The parties write jointly in response to the Court's December 1, 2021, Order directing a status update on yesterday's date.

On November 19, 2021, the Honorable Kevin F. Russo, County Court Judge for Rockland County, New York, issued a writ directing the defendant's personal appearance in Rockland County Court on January 26, 2022 (the "Rockland County Writ"). The writ was provided to the Rockland County Sheriff's Office and the United States Marshal Service (the "USMS"), and approved by the Government.

On December 6, 2021, the Government conferred with legal counsel at the Bureau of Prisons (the "BOP") regarding the execution of the Rockland County Writ, and learned the BOP Policy for the Transfer of Inmates to State Agents for Production on State Writs (the "Transfer Policy") requires the state law enforcement agent seeking transfer to submit a letter to the warden of the transferring BOP facility. The Government assisted the First Assistant District Attorney in the Rockland County District Attorney's Office (the "ADA") in preparing a letter that satisfied the requirements of the Transfer Policy, and the ADA submitted the letter to Warden Jeffrey Krueger on December 27, 2021.

On January 11, 2022, the Records Department at the United States Medical Center for Federal Prisoners in Springfield, Missouri, contacted the Government to verify the authenticity of the Rockland County Writ. The Government confirmed the Rockland County Writ was authentic. On the same date, the Government conferred with the United States Marshal Service regarding the defendant's transportation to New York. According to the USMS, the defendant is scheduled to be transported to New York in advance of the January 26, 2022, court appearance in Rockland County. While the defendant is in New York, he will be housed at the Rockland County Jail.

The Government has further conferred with the ADA regarding the defendant's competency. Specifically, the Government has shared the Bureau of Prisons' determinations that (i) the defendant is unlikely to be restored to competency in the foreseeable future, and (ii) his release

would create a substantial risk of bodily injury to another person or serious damage to the property of another. The Government will continue to engage with the Rockland County District Attorney's Office regarding the defendant's competency and commitment status, including the appropriate procedure for state authorities to consider the possibility of the defendant's permanent transfer to the custody of New York State.

The parties respectfully request forty-five days to further update the Court regarding the status of the Rockland County proceedings, and propose a course of action as to this case.

Respectfully submitted,

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